

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7628

Joint Petition of Green Mountain Power Corporation,)
Vermont Electric Cooperative, Inc., and Vermont)
Electric Power Company, Inc. for a certificate of public)
good, pursuant to 30 V.S.A. Section 248, to construct up)
to a 63 MW wind electric generation facility and)
associated facilities on Lowell Mountain in Lowell,)
Vermont, and the installation or upgrade of)
approximately 16.9 miles of transmission line and)
associated substations in Lowell, Westfield, and Jay,)
Vermont)

Order entered: 9/3/2010

ORDER RE: MOTIONS TO INTERVENE

In this Order, the Vermont Public Service Board ("Board") addresses motions to intervene from the following persons and entities:

Central Vermont Public Service Corporation ("CVPS");
Donald and Shirley Nelson;
Kevin McGrath;
Milo and Bonnie Day;
Jack Brooks;
Lowell Mountains Group, Inc. ("LMG");
Green Mountain Club ("GMC");
Dyer-Dunn, Inc. ("Dyer-Dunn");
Town of Albany;
Town of Craftsbury; and
Town of Lowell.

We address each of these motions below. However, we note that a number of the moving parties are representing themselves. In addition, some of the organizations and towns seeking to intervene also have representation from non-attorneys. These parties are reminded that, even

though we make efforts to enable participation by non-attorneys, they are still required to adhere to all of the Board's Rules of Practice, as well as all Orders issued in this proceeding, including scheduling orders. This includes the requirement that all documents be served on all other parties to the proceeding.

Additionally, this proceeding will have a large number of parties. We encourage parties with similar interests to work together in the preparation of testimony and discovery and the examination of witnesses. To reduce duplicative testimony and examination, the Board also has the authority to require parties to join with other parties "with respect to appearance by counsel, presentation of evidence or other matters." With the exception of the coordination of efforts between LMG and its individual members who are also parties to the proceeding that is described below, we do not impose any such requirements at this time, but may in the future if the "interests of justice and economy of adjudication require."¹

CVPS

CVPS filed a motion to intervene in this Docket on August 6, 2010. CVPS states that it has an interest in this proceeding because it owns and operates a sub-transmission line that runs from Lowell, Vermont, to Johnson, Vermont, and that the proposed interconnection of the wind generation facility with the Vermont Electric Power Company, Inc. ("VELCO") system could contribute to problems with CVPS's sub-transmission line. CVPS seeks to assure that the interconnection and operation of the project will not have an adverse affect on the safety, reliability, and stability of its distribution system.

The Petitioners filed comments on CVPS's motion on August 12, 2010, noting that they do not oppose CVPS's intervention, but asking that its participation be limited to criterion (b)(10) as it relates to the stability of CVPS's electrical system.

CVPS's motion is granted on a permissive basis pursuant to PSB Rule 2.209(B), limited to the interests it identified in its motion. We do not specifically limit CVPS's participation to criterion (b)(10) (existing or planned transmission facilities) as requested by the Petitioners

1. Board Rule 2.209(C).

because it appears the interests identified in its motion might also encompass criterion (b)(2) (system stability and reliability).

DONALD AND SHIRLEY NELSON

The Nelsons filed a motion to intervene on August 11, 2010. The Nelsons state that they have an interest in the proposed project's impacts to aesthetics (including noise and shadow flicker), property rights and values, health (including setbacks), watersheds and wetlands (including springs near the project that feed ponds and spring houses on the Nelsons' property), historic sites (including the Nelsons' house and the Bayley Hazen Road), area economics, wildlife generally, and potential electrical interference.²

The Petitioners filed comments on the Nelsons' motion on August 12, 2010. The Petitioners do not object to the Nelsons' intervention with respect to project impacts related to aesthetics, noise and setbacks specific to the Nelson property. Additionally, the Petitioners do not object to intervention for consideration of impacts to property values under (b)(1) (orderly development) and (b)(4) (economic benefit), provided that participation is limited to the impacts that individual property values have on regional property values generally. With respect to the other grounds for intervention raised by the Nelsons, the Petitioners contend the Nelsons have either failed to demonstrate a particularized interest, or failed to explain why an identified interest is not otherwise adequately represented by an existing party.

We grant the Nelsons' motion on a permissive basis pursuant to PSB Rule 2.209(B) to address the particularized impacts the project would have on their property with respect to aesthetics, including noise and shadow flicker, setbacks, property value impacts as they relate to overall economic impacts,³ the historic character of the Nelson house, impacts to springs located on the Nelsons' property that feed their ponds and spring houses, and potential electrical

2. As used in this Order, electrical interference refers to potential interference with radio, television and telecommunications signals.

3. This proceeding will not address the impact of the proposed project on individual property values. *See Vt. Elec. Power Co. v. Bandel*, 135 Vt. 141, 145 (1977) ("Proceedings under 30 V.S.A. § 248 relate only to the issues of public good, not to the interests of private landowners who are or may be involved."). However, one factor relevant to determining whether the proposed project will provide an economic benefit to the state is the overall impact of the proposed project on property values in general. *Lamoille County Project*, Docket 7032, Order of 3/16/06 at 26. Thus, we will allow intervening landowners to address such overall economic benefit issues.

interference at their house. On these topics, the Nelsons have demonstrated a particularized interest that is not adequately represented by other parties.

With respect to impacts to historic resources other than the Nelson property, wildlife impacts generally, generalized health impacts, and impacts to other area properties, the Nelsons have raised only generalized concerns about the project and have not demonstrated any specific particularized interest sufficient to support intervention on those topics. Therefore, their intervention request is denied on these topics.

KEVIN MCGRATH

Mr. McGrath filed a motion to intervene on August 11, 2010. Mr. McGrath states that he has an interest in the proposed project's impacts to property rights and values by virtue of its aesthetic impacts (including noise and shadow flicker), setbacks, health effects due to project noise, economic impacts including the economics of wind projects, and potential electrical interference.

The Petitioners filed comments on Mr. McGrath's motion on August 12, 2010. The Petitioners' comments on Mr. McGrath's motion were essentially the same as those applicable to the Nelsons. That is, the Petitioners do not object to Mr. McGrath's intervention with respect to project impacts related to aesthetics, noise and setbacks specific to the McGrath property. Additionally, the Petitioners do not object to intervention for consideration of impacts to property values under (b)(1) (orderly development) and (b)(4) (economic benefit), provided that participation is limited to the impacts that individual property values have on regional property values generally. With respect to the other grounds for intervention raised by Mr. McGrath, the Petitioners contend he has either failed to demonstrate a particularized interest or failed to explain why an identified interest is not otherwise adequately represented by an existing party.

We grant Mr. McGrath's motion on a permissive basis pursuant to PSB Rule 2.209(B) to address the particularized impacts the project would have on his property with respect to aesthetics, noise and shadow flicker, setbacks, property value impacts as they relate to overall

economic impacts,⁴ and potential electrical interference at his house. On these topics, Mr. McGrath has demonstrated a particularized interest that is not represented by other parties.

With respect to Mr. McGrath's more generalized concerns regarding the economics of wind projects, we conclude he has not demonstrated a particularized interest sufficient to warrant intervention, and therefore deny his intervention request with respect to this issue. Additionally, it appears that these concerns relate to the overall need for the project, a topic which is addressed in these proceedings by the Department of Public Service ("Department"), and Mr. McGrath failed to explain why the Department's representation on this topic is inadequate to protect his interest.

MILO AND BONNIE DAY

Milo and Bonnie Day (the "Days") filed a motion to intervene on August 12, 2010. The Days state that they have an interest in the proposed project with respect to orderly development of the region (signage on turbine nacelles and decommissioning), economic benefit (tourism), aesthetics, property rights and values (including potential electrical interference), air and water purity, the natural environment (bat populations and wildlife generally), public health and safety (turbine noise, asbestos and ice throw), and impacts to public investments (highways). The Days are also critical of PSB Rule 5.403(B)(2), which requires the Petitioners to submit an assessment of project impacts on towns within a ten-mile radius of the proposed project.

The Petitioners filed comments on the Days' motion on August 12, 2010. The Petitioners' comments on the Days' motion were essentially the same as those applicable to the Nelsons and Mr. McGrath. That is, the Petitioners do not object to the Days' intervention with respect to project impacts related to aesthetics, noise and setbacks specific to the Days' property. Additionally, the Petitioners do not object to intervention for consideration of impacts to property values under (b)(1) (orderly development) and (b)(4) (economic benefit), provided that participation is limited to the impacts that individual property values have on regional property values generally. With respect to the other grounds for intervention raised by the Days, the Petitioners contend they have either failed to demonstrate a particularized interest, or failed to

4. See note 3.

explain why an identified interest is not otherwise adequately represented by an existing party. The Petitioners also assert that the Days raise a number of issues that are not germane to the topic of the Days' intervention in this Docket.

We grant the Days' motion on a permissive basis pursuant to PSB Rule 2.209(B) to address the particularized impacts the project would have on their property with respect to aesthetics, noise and setbacks, property value impacts as they relate to overall economic impacts,⁵ and potential electrical interference at their house. Additionally, we are granting intervention to the Days to address possible health risks particular to them (i.e., possible contamination of their property) related to the potential for asbestos at the project site. On these topics, the Days have demonstrated a particularized interest that is not represented by other parties.

With respect to the Days' concerns about decommissioning, tourism impacts, generalized wildlife impacts, air and water purity, generalized health impacts including ice throw risk to the general public, and impacts to public roads, the Days have raised only generalized concerns about the project and have not demonstrated any specific particularized interest sufficient to support intervention, and thus we deny their intervention requests on these topics.

The Petitioners correctly note that the Days' motion raises a number of issues that are not germane to their request for intervention. Whether company logos on the nacelles of wind turbines would run afoul of Vermont's billboard law is not a matter that is considered under section 248. Similarly, the Days' concerns regarding the project amounting to a taking of their property without compensation is not relevant to any criterion under section 248.⁶ Lastly, the Days' concern regarding the adequacy of PSB Rule 5.403(B)(2) is not a topic under review in this proceeding.

5. *See* note 3.

6. *Bandel*, 135 Vt. at 145 ("Proceedings under 30 V.S.A. § 248 relate only to the issues of public good, not to the interests of private landowners who are or may be involved.").

JACK BROOKS

Mr. Brooks filed a motion to intervene on August 12, 2010. Mr. Brooks states that he has a Masters degree in engineering and has worked for over 30 years in water delivery systems and erosion control and environmental issues. Mr. Brooks states that he has an interest in the proposed project's impacts to the main water supply for his property, as well as impacts to the area's water supply generally and erosion impacts generally. Finally, Mr. Brooks states that he has concerns regarding noise impacts and issues associated with ice throw onto his property.

The Petitioners filed comments on Mr. Brooks' motion on August 18, 2010. The Petitioners do not object to Mr. Brooks' intervention on ice throw or turbine collapse issues, provided his participation is limited to impacts specific to his property. With respect to noise issues, the Petitioners do not object to his participation if it is limited to impacts at his home. They object to his participation on noise issues for any other locations on his property or for locations on the private property where the turbines will be located which Mr. Brooks sometimes uses. With respect to water purity and quality, soil erosion and public health and safety, the Petitioners assert that Mr. Brooks' interests are no different from any other resident of the area, and that those interests are adequately protected by the Department and the Vermont Agency of Natural Resources ("ANR").

We grant Mr. Brooks' motion on a permissive basis pursuant to PSB Rule 2.209(B) to address the particularized impacts the project would have on the main water supply serving his property, as well as the impacts of noise and ice throw onto his property. On these topics, Mr. Brooks has demonstrated a particularized interest that is not represented by other parties. To the extent Mr. Brooks is seeking to address impacts to property not his own, his motion is denied.

With respect to Mr. Brooks' concerns regarding impacts to the area water supply generally, and the potential for project-related erosion, we find that Mr. Brooks has raised only generalized concerns about the project and has not demonstrated any specific particularized interest sufficient to support intervention, and we therefore deny his intervention request on these topics.

LOWELL MOUNTAINS GROUP

LMG filed a motion to intervene on August 12, 2010. LMG states that it is a non-profit organization consisting of over 200 voters or real-property owners residing in the vicinity of the proposed project. Some of its members own property adjacent to the project site and the transmission lines that will serve it, while others live in other parts of Vermont and New England, but visit the Lowell Mountain area. LMG states that it was founded to "protect and promote the rights of its members and the public in the aesthetic, economic and ecological resources of the area around Lowell Mountain range," and that its purpose is "to raise awareness of the potential impacts that an industrial-scale electric generation facility sited on the Lowell Mountain range would have on the health, aesthetics, wildlife and economy of the area, including property values as it affects LMG's members as well as individuals generally in the area affected by the mountain ridge line."

LMG states that it has interests in project impacts related to orderly development of the region, aesthetics, scenic and natural beauty and historic sites, public health and safety due to noise impacts, the natural environment, rare and irreplaceable natural areas, transportation systems, investments in public facilities, need for the project, economic benefit (including property values, tourism and loss of intact forest cover), and blasting and its potential to impact water supplies and raise asbestos.

The Petitioners filed comments on LMG's motion on August 18, 2010. The Petitioners object to LMG's intervention on all grounds. We address each of LMG's asserted grounds for intervention and Petitioners' responses in the discussion below.

Orderly Development of the Region

The Petitioners contend that LMG has not provided sufficient information concerning the particularized interests of its members, other than abutting landowners who have filed individual motions to intervene. The Petitioners further contend that the generalized interests advanced by LMG are already adequately represented by existing parties such as the Department and individual towns that seek to intervene.

We disagree with the Petitioners on both points. LMG states that it was founded to "protect and promote the rights of its members and the public in the aesthetic, economic and ecological resources of the area around Lowell Mountain range," and that its purpose is "to raise awareness of the potential impacts that an industrial-scale electric generation facility sited on the Lowell Mountain range would have on the health, aesthetics, wildlife and economy of the area, including property values as it affects LMG's members as well as individuals generally in the area affected by the mountain ridge line." LMG has adequately described the purpose behind the organization and that purpose is sufficient to encompass its members' interests in the orderly development of the region. Additionally, Petitioner incorrectly assumes that the interests of LMG members are aligned with the interests of the intervening towns and the Department. Such an assumption is unwarranted⁷ and the Board has declined to rely on it as a basis to deny intervention in the past.⁸ The Petitioners have given us no reason to depart from this practice.

Least-Cost Service

The Petitioners contend that LMG's motion fails to demonstrate an interest under 30 V.S.A. § 248(b)(2) that is not already being adequately represented by the Department in its role as ratepayer advocate. We agree with the Petitioners. LMG has failed to explain why its member interests with respect to least-cost alternatives (i.e., the need for the project) are different than the interests of ratepayers in general. Thus, LMG has not demonstrated a particularized interest with respect to the need for the project. Additionally, the generalized interest described by LMG is already represented adequately by the Department.

Economic Benefit

The Petitioners contend that LMG's interest in economic impacts of the project under criterion (b)(4) are generalized interests that are otherwise adequately represented by the Department. As with the issue of orderly development, we disagree. LMG's statement of

7. LMG notes in its motion that its membership is more widespread than just residents of the towns that have sought to intervene, and even includes members from outside the state who visit the area regularly.

8. *Petition of UPC Vermont Wind*, Docket 7156, Order of 4/27/06 at 5.

purpose adequately explains that the organization's members have an interest in the regional economic impacts of the project. The organization's membership includes a variety of individuals, some who live in the immediate vicinity of the project site, and some who do not, including members that live outside the state but visit the area regularly. LMG states that it represents individuals and groups whose interests span both the immediate and regional resources that will be impacted by the project, and that it has a strong interest in protecting the character and resources of the area. Given its membership composition and stated goals, LMG "may provide a perspective that is sufficiently distinct" from that of the Department to support permissive intervention under (b)(4).⁹ However, pursuant to our discussion below, LMG will not be permitted to present evidence and argument regarding economic impacts to property values specific to any of its members. Rather, its participation is limited to regional impacts consistent with its stated purposes.

Public Health and Safety

The Petitioners contend that LMG's motion fails to demonstrate a particularized interest under 30 V.S.A. § 248(b)(5) with respect to public health and safety that is not already being adequately represented by the Department. We agree with the Petitioners. LMG has not differentiated its members' interests with respect to public health and safety from the interests of the public as a whole, and has failed to explain why its generalized interests are not already adequately represented by the Department.

Aesthetics, Natural Resources, and Public Investments

The Petitioners contend that LMG's motion fails to demonstrate a particularized interest under 30 V.S.A. § 248(b)(5) with respect to aesthetics, natural resources, and public investments (including transportation systems) that is not already being adequately represented by the Department or ANR, or the intervening towns. We agree with the Petitioners with respect to public investments, including transportation systems. LMG has not explained why its members' interests in these topics differ from the interests of the public generally, or why those interests are

9. *Id.*

not adequately represented by other parties. We disagree with the Petitioners with respect to aesthetics and natural resource impacts. As with the orderly development and economic benefit criteria, LMG has adequately described a particularized interest based on the purposes of the organization and the composition of its membership. LMG states that it has a strong interest in preserving the natural resources and rural character of the area and describes membership that came together to advance those goals. We conclude that this interest is sufficiently different from that of the general public to support intervention by LMG on these topics.

Petitioners' Request to Limit Participation by Individual LMG Members

The Petitioners also request that, to the extent the Days, the Nelsons, Mr. Brooks, Mr. Stackpole, Dyer-Dunn, Inc., or Mr. McGrath are members of LMG, and the Board grants LMG intervention on any of the same criteria on which the members have individually sought intervention, that the members' individual intervention requests be denied. We decline to take the action requested by the Petitioners. The Petitioners apparently assume that the individual members cannot have some interests separate and apart from those advanced by the group. We disagree. For example, only the individual members have standing to address project impacts specific to their individual properties. If we were to follow the Petitioners' recommendation, the individual members would be without recourse to present their positions on these particularized impacts because LMG would not have standing to do so. This means that LMG will not be permitted to advocate on concerns specific to any of its members who are also individual parties to the proceeding. Likewise, LMG members who are admitted as parties in their own right will not be allowed to advocate the broader interests of the group through their status as individual parties.¹⁰ Additionally, LMG members who have been granted individual party status must coordinate with LMG on drafting and service of discovery requests, presentation of testimony and examination of witnesses to avoid the imposition of unnecessary and duplicative burdens on other parties to the proceeding.

10. Any members of LMG who have also sought and been granted party status as individuals, are of course free to withdraw as a party and participate solely through LMG.

In summary, we grant LMG's motion on a permissive basis pursuant to PSB Rule 2.209(B) to participate, as described above, on the topics of orderly development of the region, economic impacts, aesthetics, and natural resources. LMG's motion to intervene with respect to need for the project, public health and safety, and impacts to public investments is denied. LMG's participation is limited to representing the interests of its members as a group. It has no standing to represent the interests of the general public as it claims in its statement of purpose. LMG's participation with respect to property-value impacts is limited to regional impacts and how those impacts effect the overall economic impacts of the project. LMG is not permitted to present evidence of specific property-value impacts of its individual members. Additionally, if LMG does not retain counsel for this proceeding, it must, consistent with the requirements of PSB Rule 2.201(B), designate a single individual to represent the group in this proceeding, and file a notice with the Board no later than ten business days from the date of this Order identifying the individual designated to serve in that capacity.

As a final matter, the Petitioners have requested that LMG, if it is granted party status, be required to provide copies of its bylaws, as well as a list of its members who also sought individual party status, to all other parties to the proceeding. While this information would be accessible in discovery on LMG, we conclude that for reasons of efficiency it is preferable for this information to be disclosed to the Board and other parties sooner, rather than later, in the event such information causes any parties to believe reconsideration of the issues in this intervention order is warranted. Accordingly, we direct LMG to provide one copy of the requested information to each party on the service list, and to file seven copies of the same with the Clerk of the Board within 10 business days of the date of this Order.

GREEN MOUNTAIN CLUB

GMC filed a motion to intervene on August 12, 2010. GMC states that it is a Vermont nonprofit corporation whose mission is to protect, preserve, manage and maintain hiking trails in Vermont, and that it primarily cares for the Long Trail, focusing on protecting and preserving it for future generations. GMC states that it has been designated by the Vermont Legislature as "founder, sponsor, defender and protector of the Long Trail," and that it therefore has a

substantial interest in the proposed project's impacts on the trail, in particular, a 10-mile segment between Routes 118 and 58. GMC's specific concerns are "the effect on the scenic and natural beauty of the area, aesthetics, historic sites under Criterion 8 of Act 250, and whether the project will unnecessarily or unreasonably endanger the public or quasi-public investment in the historic Long Trail or materially jeopardize or interfere with the public's use and enjoyment of the Long Trail under Criterion 9(K) of Act 250, including the historic Tillotson Camp." GMC also states its desire to participate in the evaluation and discussion of the need for a decommissioning plan and fund.

The Petitioners filed comments on GMC's motion on August 18, 2010. The Petitioners do not object to GMC's intervention provided it is limited to project impacts on the use and enjoyment of the Long Trail as a public or quasi-public investment, aesthetic and visual impacts to the trail, and the views from, and the historic nature of, the Tillotson Camp. The Petitioners object to GMC's participation on any generalized impacts of the project beyond the Long Trail, including participation on the topic of decommissioning.

We grant GMC's motion on a permissive basis pursuant to PSB Rule 2.209(B) for the interests it has identified in its motion limited to impacts to the Long Trail and Tillotson Camp. We deny GMC's intervention request with respect to the topic of a decommissioning plan and fund. GMC has not adequately explained why it has an interest in decommissioning that is distinct from that of the general public which would warrant intervention on this topic.

DYER-DUNN, INC.

Dyer-Dunn filed a motion to intervene on August 13, 2010. Dyer-Dunn states that it is a Vermont corporation in good standing organized to acquire a parcel of land of approximately 274 acres nearby, and in places possibly abutting, the project site. The property is the sole asset of the corporation and was acquired to provide a capital growth opportunity for Dyer-Dunn shareholders, and to provide a wilderness, wildlife and forest experience for its owners, guests and the public at large. Dyer-Dunn states that it has concerns about, and seeks to participate in this proceeding on, orderly development of the region, need for the Project, economic benefit,

aesthetics, historic sites, air and water purity, the natural environment and public health and safety.

The Petitioners filed comments on Dyer-Dunn's motion on August 18, 2010. The Petitioners do not object to Dyer-Dunn's intervention provided it is limited to project impacts specific to Dyer-Dunn's property. In particular, the Petitioners do not object to Dyer-Dunn's participation on property value impacts to Dyer-Dunn's property as they relate to regional property values generally, and aesthetic and noise impacts at the camp located on the property. With respect to all other grounds for intervention, the Petitioners argue that Dyer-Dunn's motion should be denied because Dyer-Dunn does not assert a particularized interest sufficient to warrant intervention, and that the generalized interests it raises are already adequately represented by existing parties.

We grant Dyer-Dunn's motion with respect to orderly development and economic impact, but limited to Project impacts to Dyer-Dunn's property value as it relates to regional property values generally.¹¹ We also grant Dyer-Dunn's motion with respect to aesthetics and noise, but limited to impacts to the property it owns, and water purity and quality with respect to the spring fed stream that serves the cabin on the property. With respect to the other grounds for intervention advanced by Dyer-Dunn, we agree with the Petitioners that Dyer-Dunn has not demonstrated a unique interest not otherwise already adequately represented by the Department or ANR, and its motion to participate on those grounds is denied.

ALBANY

The Town of Albany filed a motion to intervene on August 12, 2010. Albany states that it has interests in the proposed project's impacts on orderly development of the region, area economics related to tourism, aesthetics, property rights and values (including potential for electronic interference), compensation for impacts to area property owners, impacts to the town's grand list, air and water quality, the natural environment, public health and safety (including noise impacts, asbestos exposure, and increased demands on emergency services), and impacts to town roads.

11. See note 3.

The Petitioners filed comments on Albany's motion on August 18, 2010. The Petitioners do not object to Albany's intervention provided its participation is limited to particularized interests within the town, or to the extent that criterion (b)(1) requires the Board to give due consideration to the recommendations of a municipal planning commission. The Petitioners object to Albany's intervention on more generalized grounds for impacts beyond the town's boundaries, because ANR and the Department will adequately represent the public interest on these issues. The Petitioners further state that Albany's concerns regarding electronic interference, noise, and the potential for asbestos exposure are generalized concerns and the town has therefore not demonstrated a particularized interest sufficient to warrant participation on these topics.

We grant Albany's motion to intervene on a permissive basis pursuant to PSB Rule 2.209(B). With respect to criteria (b)(4) and (b)(5), Albany's participation is limited to project impacts within the town. We agree with the Petitioners that generalized concerns regarding Project impacts outside the town under these two criteria are not a basis for intervention for Albany. At this time we decline to prohibit Albany from addressing the issues of electronic interference, noise, and potential asbestos contamination because it is possible the town could address these topics in a manner limited to town-specific interests. As the Docket progresses, if any party believes that Albany is acting outside the scope of its intervention grant on these topics, it may ask the Board to take appropriate action at that time. Additionally, we do not restrict the town's participation under criterion (b)(1) (orderly development) as requested by the Petitioners. The Petitioners appear to be asking the Board to limit Albany's participation to recommendations provided pursuant to 30 V.S.A. § 248(f). The Board has previously rejected such a restriction as unsupportable based on the plain language of section 248.¹² Additionally, Albany has an interest in regional impacts as it is a statutory participant in regional planning efforts pursuant to Chapter 117 of Title 24 of the Vermont Statutes Annotated.

12. *Petition of Vermont Elec. Power Co. et al re: Northwest Reliability Project*, Docket 6860, Order of 1/28/05 at 201.

CRAFTSBURY

The Town of Craftsbury filed a motion to intervene on August 11, 2010.¹³ Craftsbury states that the town lies at the southern terminus of the proposed project's viewshed, and that the proposed project could have an impact on the aesthetic quality and economic interests of the town and its residents. The Select Board states that how the town "looks" is of great importance to its economic health.

The Petitioners filed comments on Craftsbury's motion on August 18, 2010. The Petitioners do not object to Craftsbury's intervention provided its participation is limited to particularized interests within the town, or to the extent that criterion (b)(1) requires the Board to give due consideration to the recommendations of a municipal planning commission. The Petitioners object to Craftsbury's intervention on more generalized grounds for impacts beyond the town's boundaries, because ANR and the Department will adequately represent the public interest on these issues.

We grant Craftsbury's motion to intervene on a permissive basis pursuant to PSB Rule 2.209(B). Craftsbury's intervention is limited to the interests that it identified in its motion, and with respect to criteria (b)(4) and (b)(5), only to the extent the project will have impacts within the town. We agree with the Petitioners that generalized concerns regarding Project impacts outside the town under these two criteria are not a basis for intervention for Craftsbury. However, we do not restrict the town's participation under criterion (b)(1) (orderly development) as requested by the Petitioners. The Petitioners appear to be asking the Board to limit Craftsbury's participation to recommendations provided pursuant to 30 V.S.A. § 248(f). The Board has previously rejected such a restriction as unsupportable based on the plain language of section 248.¹⁴ Additionally, Craftsbury has an interest in regional impacts as it is a statutory participant in regional planning efforts pursuant to Chapter 117 of Title 24 of the Vermont Statutes Annotated.

13. Craftsbury originally sent its motion to the Board on July 29, 2010. However, on August 11, 2010, the town informed the Clerk of the Board that the motion had not been served on other parties to the Docket until that date. Accordingly, the Board is deeming the motion filed as of August 11, 2010.

14. See note 12.

LOWELL

The Town of Lowell filed a motion to intervene on August 13, 2010. Lowell states that it has a substantial interest in the proceeding because the turbines and much of the project's transmission infrastructure will be located within its borders. The town also notes that it has an agreement with the Petitioners regarding certain aspects of the project and its relationship to the town. Lowell states that its interests are concerned with orderly development of the region, the economic impacts of the project, aesthetics, historic sites, air and water purity, the natural environment and public health and safety.

The Petitioners filed comments on Lowell's motion on August 18, 2010. The Petitioners do not object to Lowell's intervention provided its participation is limited to particularized interests within the town, or to the extent that criterion (b)(1) requires the Board to give due consideration to the recommendations of a municipal planning commission. The Petitioners object to Lowell's intervention on more generalized grounds for impacts beyond the town's boundaries, because ANR and the Department will adequately represent the public interest on these issues.

We grant Lowell's motion to intervene on a permissive basis pursuant to PSB Rule 2.209(B). Lowell's intervention is limited to the interests that it identified in its motion, and with respect to criteria (b)(4) and (b)(5), only to the extent the project will have impacts within the town. We agree with the Petitioners that generalized concerns regarding project impacts outside the town under these two criteria are not a basis for intervention for Lowell. However, we do not restrict the town's participation under criterion (b)(1) (orderly development) as requested by the Petitioners. The Petitioners appear to be asking the Board to limit Lowell's participation to recommendations provided pursuant to 30 V.S.A. § 248(f). The Board has previously rejected such a restriction as unsupportable based on the plain language of section 248.¹⁵ Additionally, Lowell has an interest in regional impacts as it is a statutory participant in regional planning efforts pursuant to Chapter 117 of Title 24 of the Vermont Statutes Annotated.

15. See note 12.

SO ORDERED.

Dated at Montpelier, Vermont, this 3rd day of September, 2010.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
)	

OFFICE OF THE CLERK

FILED: September 3, 2010

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)